

## Fishery Conservation and Management

## § 665.427

reasons deemed equitable. The appellant, the applicant (if different), and, at the discretion of the hearing officer, other interested parties, may appear personally and/or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(iv) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Administrator will notify interested persons of the decision, and the reason(s) therefore, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Administrator's action constitutes final action for the agency for the purposes of the Administrative Procedure Act.

(5) The Regional Administrator may extend, for good cause, any time limit prescribed in this section for a period not to exceed 30 days, either upon his or her own motion or upon written request from the Council, appellant or applicant stating the reason(s) therefore.

### § 665.425 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.15 of this part, it is unlawful for any person to do any of the following:

(a) Fish for, take, retain, possess or land any Mariana coral reef ecosystem MUS in any low-use MPA as defined in § 665.399 unless:

(1) A valid permit has been issued for the hand harvester or the fishing vessel operator that specifies the applicable area of harvest;

(2) A permit is not required, as outlined in § 665.424 of this part; or

(3) The Mariana coral reef ecosystem MUS possessed on board the vessel originated outside the management area and this can be demonstrated through receipts of purchase, invoices, fishing logbooks or other documentation.

(b) Fish for, take, or retain any Mariana coral reef ecosystem MUS species:

(1) That is determined overfished with subsequent rulemaking by the Regional Administrator.

(2) By means of gear or methods prohibited under § 665.427.

(3) In a low-use MPA without a valid special permit.

(4) In violation of any permit issued under §§ 665.13 or 665.424.

(c) Fish for, take, or retain any wild live rock or live hard coral except under a valid special permit for scientific research, aquaculture seed stock collection or traditional and ceremonial purposes by indigenous people.

### § 665.426 Notifications.

Any special permit holder subject to the requirements of this subpart must contact the appropriate NMFS enforcement agent in American Samoa, Guam, or Hawaii at least 24 hours before landing any Mariana coral reef ecosystem MUS unit species harvested under a special permit, and report the port and the approximate date and time at which the catch will be landed.

### § 665.427 Allowable gear and gear restrictions.

(a) Mariana coral reef ecosystem MUS may be taken only with the following allowable gear and methods:

(1) Hand harvest;

(2) Spear;

(3) Slurp gun;

(4) Hand net/dip net;

(5) Hoop net for Kona crab;

(6) Throw net;

(7) Barrier net;

(8) Surround/purse net that is attended at all times;

(9) Hook-and-line (includes handline (powered or not), rod-and-reel, and trolling);

(10) Crab and fish traps with vessel ID number affixed; and

(11) Remote-operating vehicles/submersibles.

(b) Mariana coral reef ecosystem MUS may not be taken by means of poisons, explosives, or intoxicating substances. Possession or use of these materials by any permit holder under this subpart who is established to be fishing for Mariana coral reef ecosystem MUS in the management area is prohibited.

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(c) Existing FEP fisheries shall follow the allowable gear and methods outlined in their respective plans.

(d) Any person who intends to fish with new gear not included in this section must describe the new gear and its method of deployment in the special permit application. A decision on the permissibility of this gear type will be made by the Regional Administrator after consultation with the Council and the director of the affected state fishery management agency.

### § 665.428 Gear identification.

(a) The vessel number must be affixed to all fish and crab traps on board the vessel or deployed in the water by any vessel or person holding a permit under §§ 665.13 or 665.424 or that is otherwise established to be fishing for Mariana coral reef ecosystem MUS in the management area.

(b) *Enforcement action.* (1) Traps not marked in compliance with paragraph (a) of this section and found deployed in the coral reef ecosystem management area will be considered unclaimed or abandoned property, and may be disposed of in any manner considered appropriate by NMFS or an authorized officer.

(2) Unattended surround nets or bait seine nets found deployed in the coral reef ecosystem management area will be considered unclaimed or abandoned property, and may be disposed of in any manner considered appropriate by NMFS or an authorized officer.

### §§ 665.429–665.439 [Reserved]

### § 665.440 Mariana crustacean fisheries. [Reserved]

### § 665.441 Definitions.

As used in §§ 665.440 through 665.459:

*Crustacean Permit Area 5 (Permit Area 5)* means the EEZ around Guam and the EEZ seaward of points 3 nautical miles from the shoreline of the CNMI.

*Mariana crustacean management unit species* means the following crustaceans:

## 50 CFR Ch. VI (10–1–11 Edition)

Local name	English common name	Scientific name
Mahonggang .....	spiny lobster .....	<i>Panulirus marginatus</i> , <i>Panulirus penicillatus</i> .
pa'pangpang .....	slipper lobster .....	Scyllaridae.
	Kona crab .....	<i>Ranina ranina</i> .
	deepwater shrimp	<i>Heterocarpus</i> spp.

### § 665.442 Permits.

(a) *Applicability.* (1) The owner of any vessel used to fish for lobster in Permit Area 3 must have a permit issued for such a vessel.

(2) The owner of any vessel used to fish for deepwater shrimp in Crustacean Permit Area 5 must have a permit issued for that vessel.

(b) *General requirements.* General requirements governing application information, issuance, fees, expiration, replacement, transfer, alteration, display, sanctions, and appeals for permits issued under this section, as applicable, are contained in § 665.13.

(c) *Application.* An application for a permit required under this section shall be submitted to PIRO as described in § 665.13. If the application for a limited access permit is submitted on behalf of a partnership or corporation, the application must be accompanied by a supplementary information sheet obtained from PIRO and contain the names and mailing addresses of all partners or shareholders and their respective percentage of ownership in the partnership or corporation.

### § 665.443 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.15, it is unlawful for any person in Crustacean Permit Area 5 to fish for, take, or retain deepwater shrimp without a permit issued under § 665.442.

### § 665.444 Notifications.

(a) The operator of any vessel subject to the requirements of this subpart must:

(1) Report, not less than 24 hours, but not more than 36 hours, before landing, the port, the approximate date and the approximate time at which spiny and slipper lobsters will be landed.